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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,359	09/28/2000	Nikolaus P.W. Almassy	TI-31690	7554

7590

07/29/2004

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EXAMINER
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EWART, JAMES D

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 07/29/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/672,359

Applicant(s)

ALMASSY, NIKOLAUS P.W.

Examiner

James D Ewart

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 22-27, 39-41 and 44 is/are rejected.
- 7) ☒ Claim(s) 5-21, 28-38, 42 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

***Response to Arguments***

1. The applicant's arguments regarding prior art rejections, filed June 02, 2004, have been fully considered by the Examiner and are addressed below.
2. Regarding claims 1 and 24, Applicant argues that Brennan et al does not teach creating a plurality of message response groups, examiner disagrees. Applicant indicates on page 3, lines 10-11 that "the message response groups change in reaction to external factors, such as the time of day" Examiner interprets the scheduler of Brennan et al. in Table 3 in which the call is directed to either the car, office, home or cottage combined with the Caller List of table 1, which indicates a plurality of announcements, as message response groups. For example the listing of table 1 from 8-9 of table 3 is one message response group and the listing of table 1 from 9-17 of table 3 is another message response group and so on... There could be different responses depending on the location where the call is directed or they could be the same. However, since the claims do not indicate that the messages within the message response group are different from one message response group to the next and since the scheduler is based upon time, as Applicant teaches, examiner interprets this as groups of message responses.
3. Regarding claim 4, Brennan et al. discusses selecting a message response group in response to the time of day see table 3.0 time (Time).
4. Regarding claims 5-21, upon further consideration, Examiner has concluded that the limitation of claim 5 of "creating a matrix of the priority group hierarchy cross-referenced to

message response hierarchy” combined with the other limitations of claim 5, the base claim and intervening claims is allowable.

5. Regarding claims 22, 23, 24, 39 and 40 Brennan et al discusses providing the caller ID to the subscriber and states that: “incoming call management is provided with an “an announcement of Caller Identification” which allows subscribers the decision to take a call once they know who is calling” see Column 2, Line 66 to Column 3, Line 2. The announcement could be on the display. Brennan et al goes on to say that “the pager receives and displays a numeric message entered by the caller. If the caller does not enter a digital code for transmission to the pager, the PCS can provide the pager with the CLID of the caller” see Column 9, Line 66 to Column 10, Line 2. If the subscriber does not accept the message then a message response, which would be selected according to table 1 via the name column, would be provided to the caller.

6. Regarding claim 25, Brennan et al discusses providing the caller ID to the subscriber and states that: “incoming call management is provided with an “an announcement of Caller Identification” which allows subscribers the decision to take a call once they know who is calling” (see Column 2, Line 66 to Column 3, Line 2) which examiner equates with audible indicator. In addition, Brennan et al also states, “the pager receives and displays a numeric message entered by the caller. If the caller does not enter a digital code for transmission to the pager, the PCS can provide the pager with the CLID of the caller” see Column 9, Line 66 to Column 10, Line 2. This means that the phone provides a display indicator as well as audible indicator, but examiner must only show one of the group of indicators. Regarding the message

response, Brennan et al teaches forwarding the call to another telephone (Column 3, Line 62 – Column 3, Line 14).

7. Regarding claim 27, mobile phones inherently have switches for turning the mobile phone on and off. Transistors are also considered switches. Brennan et al teaches providing the message response based on the time of day (Column 6, Lines 50-68).

8. Regarding claim 28-38, upon further consideration, Examiner has concluded that the limitation of claim 5 of “creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy” combined with the other limitations of claim 5, the base claim and intervening claims is allowable.

9. Regarding claim 41, see arguments for claims 1 and 22.

#### ***Amendment C***

10. Claim 24 indicates that it was amended, however there were no changes to claim 24 compared to previous amendment B. There appears to be a mistake after the word responses in the last line of the claim.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 4-12, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al (U.S. Patent No. 5,329,578) in view of Higuchi et al (U.S. Patent No. 2002/0058500) and further in view of Chelliah et al. (U.S. Patent No. 6,711,402).

Referring to claim 1, Brennan et al teaches in a wireless communications network having at least one mobile station (Column 1, Lines 52-55 and Figure 1A 17), a method of uniquely controlling the receipt of messages (Column 1, Lines 5-12) the method comprising: providing said at least one mobile station; identifying a calling party (Column 6, Lines 15-16); creating a plurality of message response groups (Column 5, Table 1 and Table 3); selecting a message response from the plurality of message response groups (Column 5, Table 1), in response to the identity of the calling party; and supplying the selected message response (Column 5, Table 1 and Column 9, Line 59), but does not teach controlling the messages at the mobile phone. Higuchi et al teaches controlling the messages at the mobile phone (0009, 0058, 0059). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of controlling the messages at the mobile phone to respond to an incoming call with a plurality of messages (0008). Brennan et al and Higuchi et al teach the limitations of claim 1, but do not specifically teach identifying a remote calling party. Chelliah et al. teaches identifying a remote calling party (Column 2, Lines 24-40). Therefore at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al and

Higuchi et al with the teaching of Chelliah et al. of identifying a remote calling party to eliminate the need for the called party to program calling party names into his or her telephone equipment (Column 2, Lines 18-21)

Referring to claim 4, Brennan et al further teaches wherein selecting a message response group from the plurality of message response groups includes selecting a message response group in response to factors including the time of day, communication activity level, and manual selection (Table 3.0).

Referring to claim 22, Brennan et al further teaches in which the wireless communication system provides Caller ID services; and wherein identifying the calling party includes using the Caller ID service to identify the calling party (Column 3, Lines 62-68).

Referring to claim 23, Brennan et al further teaches wherein identifying a calling party includes determining a calling party identity from factors including the complete phone number, area code, unknown number, and blocked number (Column 4, Lines 52-54).

12. Claims 24-32, 39, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al (U.S. Patent No. 5,329,578) in view of Higuchi et al (U.S. Patent No. 2002/0058500) and further in view of Chelliah et al. (U.S. Patent No. 6,711,402).

Referring to claim 24, Brennan et al teaches a wireless communications network having at least one mobile station (Column 1, Lines 52-55 and Figure 1A 17), a system to control the receipt of messages uniquely, the system comprising: a wireless communications port to accept calls (Fig 1a), including a microprocessor (Fig 12c; 48 & 50), a software for application of machine executable instructions (Fig 12c; 50), and identifying a calling party (Column 5, Table 1) and selecting a message response from the group of message responses (Column 5; Table 1) in response to the identity of the calling party , but does not teach wherein the control of the message responses occurs at the mobile phone and the mobile phone includes memory to hold the message responses. Higuchi et al wherein the control of the message responses occurs at the mobile phone and the mobile phone includes memory to hold the message responses (0045). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al wherein the control of the message responses occurs at the mobile phone and the mobile phone includes memory to hold the message responses to respond to an incoming call with a plurality of messages (0008).

Referring to claim 25, Brennan further teaches wherein the mobile station further includes indicators selected from the group including audible indicators (Column 2, Line 66 to Column 3, Line 2), vibrator indicators, and a visual display indicators; and wherein message responses include responses selected from the group including: using an indicator to alert, not using an indicator to alert, responding with a busy signal, not alerting and recording the message, and forwarding the call to another telephone (Column 3, Line 62 – Column 3, Line 14).



Referring to claim 26, Brennan et al further wherein the stored message response group is a message response group selected from a plurality of stored message response groups (Column 5, Lines 4 - 5 and Table 1 and Table 3).

Referring to claim 27, Brennan et al further teaches wherein the message response group stored in memory is selected in response to factors including the time of day, communication activity level (Table 3.0), but does not teach using a switch for manual selection of a message response. Higuchi et al teaches using a switch for manual selection of a message response (0011). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of using a switch for manual selection of a message response to respond to an incoming call with a plurality of messages (0008).

Referring to claim 39, Brennan et al further teaches which the wireless communication network provides Caller ID services and identifies the calling party using the Caller ID services provided by the wireless communications network (Column 3, Lines 62-68), but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008).

Referring to claim 40, Brennan et al further teaches wherein the software application identifies a calling party from factors including the complete phone number, local area exchange, area code, unknown number, and blocked number (Column 4, Lines 52-54), but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008).

Referring to claim 41, Brennan et al teaches a wireless communications network having at least one mobile station (Column 1, Lines 52-55 and Figure 1A 17), a system to control the receipt of messages uniquely, the system comprising: said at least one mobile station having a wireless communications port to accept calls (Figure 1 a, 17); and a remote site having a wireless communication port (Figure 1a. mobile switch), a microprocessor, a software application of machine executable instructions, and a memory including a group of message responses (Figure 1 b), the remote site selecting a message response from the group of message responses in response to the identity of the calling party (Column 5, Table 1), and the remote site communicating the selected response to the mobile station (Column 5, Table 1), but does not teach controlling the messages at the mobile phone. Higuchi et al teaches controlling the messages at the mobile phone (0009, 0058, 0059). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of controlling the messages at the mobile phone to respond to an incoming call with a plurality of messages (0008).

*Allowable Subject Matter*

13. Claims 42-44 are allowed. The following is a statement of reasons for the indication of allowable subject matter:

Referring to claims 42 and 43, the references cited teach the limitations of claims 42 and 43, but do not teach selecting a priority group-message response matrix from memory for use in cross-referencing the located priority group.

Referring to claim 44, the references cited teach the limitations of claim 44, but do not teach the mobile station port accepting a priority group-message response matrix transmitted by the remote memory for storage in the mobile station.

14. Claims 5-21 and 28-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

Referring to claims 5 and 28, the references cited teach the limitations of claim 5, but do not teach creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chinnaswami U.S. Patent No. 6,449,475 discloses system and method for matching calls to electronic phonebook entries.

Patsiokas et al. U.S. Patent No. 5,063,588 discloses communication system providing automatic identification of calling parties.

Huotari PCT WO 97/44981 discloses transmitting subscriber identity in mobile communication system.

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

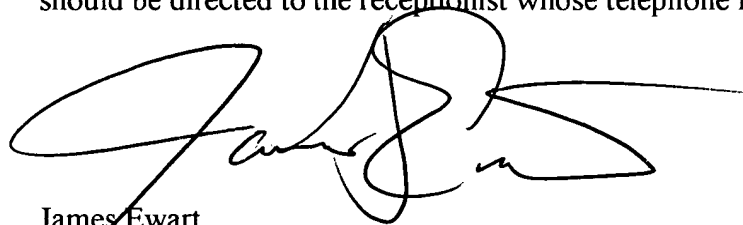
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James D Ewart whose telephone number is (703) 305-4826. The examiner can normally be reached on M-F 7am - 4pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703)308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.



James Ewart  
July 22, 2004



WILLIAM TROST  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600